IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 7147 of 2006(A)

PETITIONER:

PREETHA S. NAIR, KIZHAKKEKANAYIL,
VAYALAR EAST P.O., CHERTHALA, ALAPPUZHA.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:
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1. SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, REPRESENTED BY ITS REGISTRAR, MAIN CAMPUS, KALADY, ERNAKULAM DISTRICT.

2. THE VICE CHANCELLOR, REPRESENTED BY ITS REGISTRAR, MAIN CAMPUS, KALADY, ERNAKULAM DISTRICT.

3. THE CHANCELLOR, UNIVERSITY IN KERALA RAJ BHAVAN, TRIVANRUM.

4. JALEESH PETER, PUBLIC RELATIONS OFFICER (ON CONTRACT) SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY.

BY.
SRI.K.ANAND, SC, SANSKRIT UTY.
SMT.LATHA KRISHNAN,SC,SANSKRIT UTY.
SRI.S.GOPAKUMARAN NAIR, SC KERALA UTY.- R3
SRI.N.SUGATHAN - R4.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/08/2006, ALONG WITH WPC NO. 7850 OF 2006 WPC NO. 12570 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: TRUE COPY OF CERTIFICATE AWARDING MASTER DEGREE IN JOURNALISM AND COMMUNICATION TO PETR.

EXT.P2: TRUE COPY OF NOTIFICATION DT. 25/2/2006.

EXT.P3: GOVT. ORDER DT. 24/2/2006.

EXT.P4: TRUE COPY OF INTERVIEW MEMO ISSUED BY THE UNIVERSITY FOR INTERVIEW (AS PER ia.6074/06)

EXT.P4 : TRUE COPY OF NOTE TO SYNDICATE IN ITS 51ST MEETING (AS PER REPLY AFFIDAVIT.)

EXT.P5: TRUE COPY OF MINUTES OF 55TH MEETING OF THE SYNDICATE HELD ON 23/5/2005.

EXT.P6: TRUE COPY OF NOTICE PUBLISHED BY JOINT ACTIN COMMITTEE.

RESPONDENTS' EXHIBITS:

EXT.R4(A): TRUE COPY OF APPLICATION DT. 9/3/2006 SUBMITTED BY R4 FOR THE POST OF P.R.O.

EXT.R1(A): TRUE COPY OF MINUTES OF THE SYNDICATE MEETING HELD ON 5/3/2005.

EXT.R1(B): TRUE COPY OF LETTER DT. 22/3/05 FORWARDED TO GOVT.

A.K. Basheer, J.

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W.P(C) Nos. 7147, 7850 & 12570 of 2006

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Dated this the 12th day of December, 2006.

J U D G M E N T

The question that has arisen for consideration in this bunch of writ petitions is whether the selection process initiated by Sree Sankaracharya University of Sanskrit at Kalady for appointment to the post of Public Relations Officer (PRO) is illegal and vitiated?

2. The challenge against the selection process is based primarily on two grounds

(a) The post of PRO has not been duly created by amending the First Statutes

(b) The University is not competent to fill up the post of PRO unless and until qualifications are prescribed and method of appointment, scale of pay etc. for the post are incorporated in the Act/Statutes.

3. Petitioners in WP.Nos. 7147/06 and 12570/06 have not admittedly applied for the post of PRO in response to the notification issued by the University. But nevertheless, they have challenged the process of selection alleging nepotism and favouritism and above all questioning the competence and authority of the University in embarking upon the selection process. Petitioner in WP.7850/2006 (hereinafter referred to as the applicant) has admittedly responded to the notification and applied for the post. His grievance is that the University is not completing the selection process quickly enough.

4. WP.7147/06 will be treated as the leading case and the parties

and documents therein will be referred to in the judgment unless otherwise indicated.

5. In Ext.P2 notification issued by the University the following qualifications were prescribed for the post of PRO :

> (a) First or Second Class Master's Degree in Journalism from a recognised University.
>
> (b) Three year's experience in the field of Journalism/Public Relations in any reputed mass media institutions
>
> (c) Experience as PRO in any University (desirable)
>
> (d) Knowledge in Computer Packages like Multimedia
>
> (e) Proficiency in English and Malayalam languages

It is contended by the petitioners that the qualifications prescribed in Ext.P2 notification are “totally alien to the qualifications prescribed for the post” in other Universities in the State of Kerala. Petitioners take exception particularly to clause (c) above which stipulates that the candidate should have experience as PRO in any University. It is contended by the petitioners that the above clause has been incorporated in the notification with the sole intention to ensure that respondent No.4 gets the nod of the Selection Committee. The case of the petitioners is that respondent No.4 who has been working in the same University as PRO for more than 2 years on a temporary basis,

is most certain to be selected for the post, particularly since some of the Syndicate members are interested in him. It is only for that reason that clause (c) has been incorporated in the notification, though it is included as a desirable qualification. Petitioners have even gone to the extent of contending that the entire exercise of selection for the post of PRO, even before creating such a post in the Statutes or the relevant Schedule/Regulations, is only intended to help respondent No.4 to get a regular appointment.

6. The contention raised by the petitioners that the qualifications prescribed by the University are alien to the post cannot be sustained at all. First or Second Class Master's degree in Journalism and 3 year's experience in the field of Journalism in Public Relations in any reputed Mass Media Institutions cannot be said to be alien by any standards. Similarly knowledge in Computer Package like Multimedia and proficiency in English and Malayalam should always be inevitable for a PRO.

7. As regards the working experience as PRO in any University, it is alleged by the petitioners that the said qualification has been tailor made to suit respondent No.4. As mentioned earlier, respondent No.4 has been working in the same University for about 2 years on a temporary basis. As rightly pointed out by the University, 11 applicants had responded to the notification. It cannot be assumed that candidates with work experience as PRO in any other University other than respondent No.4 would not be available at all. More importantly, the said qualification was only desirable. Therefore the

contention raised by the petitioners that the prescription of work experience as a PRO in a University cannot be termed as unrealistic at all. It is not for the outsiders to decide what the employer should look for in the candidates from among whom they propose to make selection to a particular post. Therefore the above contention raised by the petitioners is repelled.

8. In this context it may also be pertinent to note that respondent No.4 in his counter affidavit has pointed out that Kerala University has also prescribed almost identical qualifications for the post of PRO, under the First Ordinance, 1978. They are:

> 1. Masters Degree in Communication and Journalism.
> 2. Atleast 3 years work experience in a mass media Institution (a large circulation news paper, magazine, All India Radio-TV)
> 3. Desirable: Previous experience as PRO in a large pubic sector/private sector undertaking of a minimum of one year.
> 4. Familiarity with DTP system.

In his counter counter affidavit respondent No.4 has also given the details of his credentials. It is seen from the materials on record that he holds a Master's Degree in Journalism, and Communication. He also holds Post Graduate Diploma in Personnel Management and

Public Relations apart from his graduation in Mathematics. He has also passed the Certificate course in Journalism and Communication from the Press Club, Kottayam and Deepika Institute of Journalism and Media Management. He is also a diploma holder in Computer Applications and has passed short term course in Multimedia. He has also given details of his past experience in the field of Public Relations and Journalism. A perusal of Ext.R4(a) shows that the credentials of respondent No.4 are undoubtedly satisfactory, to say the least. I hasten to add that the above observations about the credentials of respondent No.4 have been made only for the purpose of this case and that too in the backdrop of the allegations made by the petitioners that respondent No.4 has been picked up for special treatment by the University.

9. As regards the other contention that no other University in the State of Kerala has prescribed the qualifications as indicated in Ext.P2 notification, it has to be noticed that the petitioners have not pointed out what the qualifications prescribed by the other Universities for the post are. Interestingly, no other candidate who had applied for the post had a grievance that the prescribed qualifications are unreasonable or irrelevant.

10. It is contended by the petitioners that the selection process has been initiated even without creating the post of PRO in the Statutes or the Schedule concerned. But it is on record that the Syndicate of the University in its meeting held on March 5, 2005 had decided to create one post each of PRO and Publication officer in

the University "by way of statute amendment subject to Government approval". It is the admitted position that the Government had granted approval for creation of the above 2 posts in February 2006. Thereafter the Syndicate had met again on March 4, 2006 and resolved to notify the posts and invite applications from eligible candidates. It is also pertinent to note that in the meeting held on March 5, 2005 itself, the Syndicate had prescribed the qualifications, scale of pay etc. for the post.

11. But the petitioners have laid heavy emphasis on Ext.P4 "Note" prepared by the Registrar pursuant to the above decision taken by the Syndicate. It is contended by the petitioners that Ext.P4 "Note" had specifically stressed the fact that the decision of the Syndicate to create the post of PRO was "by way of statute amendment". But the University had proceeded with the selection process even without amendment of the Statute.

12. In this context it may be noticed that the power to make statutes or to amend them, is vested with the Syndicate. The said body had resolved to create the post of PRO subject to the grant of approval by the Government. The Syndicate had met again after obtaining approval from the Government in this regard. It was thereafter that Ext.P2 notification was issued. The qualifications as prescribed by the Syndicate were incorporated in the notification.

13. There is yet another aspect of the matter. As admitted by the petitioners themselves, the 4th respondent had been working as PRO in the University for the last more than 2 years on a

contract/temporary basis. Learned Standing Counsel has pointed out that the University was anxious to ensure that a regular hand was appointed to this pivotal post as quickly as possible. The University had therefore decided in March 2005 itself that the Government be approached for grant of approval for creation of the post. In the very same meeting itself the qualifications had also been prescribed and it was decided that the post must be "filled up by recruitment on the basis of merit by inviting applications through advertisement given in the Press". There is also force in the contention raised by the learned Standing Counsel that incorporation of relevant Statutes for creation of post, prescription of qualification and scale of pay etc. are only procedural matters. The Syndicate being the supreme authority vested with the requisite power to make/amend the statutes, it was felt that appropriate amendments could be made in the Statutes later. What remained was only incorporation of necessary clauses /amendments in the First Statute and the Schedule.

14. Having regard to the entire aspects of the matter I am satisfied that the action of the University in starting the selection process even before incorporating relevant clauses in the Statute would not vitiate the selection process. It might have been appropriate if the University started the selection process only after necessary amendment of the Statutes. But Since it is on record that the Syndicate of the University had completed all the other formalities for creation of the post and obtained permission of the Government to create such a post, I am of the view that the selection process need not be

hindered or impeded at this belated stage.

15. There is yet another crucial reason which persuades me to take the above view. As indicated earlier, petitioners in the two writ petitions had not applied for the post. Curiously petitioner in WP.12570/06 is not even qualified to apply for the post since he does not possess the requisite basic qualification viz., First or Second Class Master's Degree in Journalism. It is true that petitioner in WP.7147/06 is stated to be a Master's Degree holder in Journalism and Communication. But she for her own reasons had not chosen to apply for the post. However it has been vehemently contended on behalf of the petitioners that they have locus standi to challenge the selection process if it is vitiated by any patent illegality or irregularity. My be so, in exceptional circumstances. But in matters relating to Service and public employment, it is the settled position that Public Interest Litigation should not normally be entertained. It is true that petitioners have not filed this writ petition as pro bono publico. But it is clear that their interest is obviously other than "public."

16. There is one more circumstance which has prompted this Court to suspect the bonafides of the petitioners. As mentioned earlier, none of the applicants who had applied for the post has attributed any malafides about the action of the University. None of them has come before this Court alleging nepotism or favouritism on the part of some of the Syndicate members or any other officials of the University. But petitioners have made such unsubstantiated allegations in a casual manner. Significantly the names of the

members of the Syndicate who have allegedly got some interest in respondent No.4 have not been mentioned.

17. It is on record that 11 candidates had responded to Ext.P2 notification. Petitioners do not have a case that the selection process was held without any transparency. The only allegation is that previous work experience as PRO in a University had been incorporated as a qualification to help respondent No.4, who has been working in the University on a contract basis for the last 2 years. But it is beyond controversy that respondent No.4 was engaged on contract basis after a selection process. But the said tenure is due to end when the regular selection process is to be completed.

18. At this juncture I am constrained to observe about the interference from certain outside agencies in the affairs of the Universities in the State. This pernicious tendency has to be nipped in the bud in order to ensure that a healthy and wholesome atmosphere prevails in University campuses. It is significant to note that petitioners have produced Ext.P4 Note submitted by the Registrar of the University to the Syndicate. They have also produced the minutes of the meeting of the Syndicate. It may be possible for the petitioners to contend that they could get hold of Exts.P4 and P5 either from one of the members of the Syndicate or from the employees in the University. But this shows that there are people in the University itself to supply sufficient ammunition to willing name lenders. I stop from making any further observations on this aspect.

19. Having considered the rival contentions of the parties and

having perused the materials on record, I have no hesitation to hold that the contention raised by the petitioners are totally misconceived and without merit. Therefore W.P.Nos.7147/06 and 12570/06 are dismissed.

In view of the dismissal of the above two writ petitions it necessarily follows that the University will be at liberty to proceed with the selection process in accordance with law. Writ Petition No. 7850/2006 is disposed of with a direction to the University that the process of selection shall be completed as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment.

A.K. Basheer
Judge.

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